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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,432	10/31/2003	Richard A. Kelley	10011423-2	2875

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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EXAMINER

COLILLA, DANIEL JAMES

ART UNIT	PAPER NUMBER
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2854

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n N .	Applicant(s)	
	10/699,432	KELLEY ET AL.	
	Examiner	Art Unit	
	Dan Colilla	2854	

-- The MAILING DATE of this c mmunication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities:

Claim 7 is unclear due to the phrase, "and for lateral movement relative to the frame within. . . (b) laterally and selectively beyond that range under other circumstances." In order to be clear, it appears that section (b) of the claim should complete the statement beginning with "and for lateral movement relative to the frame within." However it does not appear to do so. Also, it is unclear what applicant means by, "under other circumstances."

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,663,302. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

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With respect to claim 1 of the present application, claim 1 of U.S. Patent No. 6,663,302 recites a first fixed mechanical contact actuator and a first movable mechanical contact actuator engageable with the first fixed mechanical contact actuator.

With respect to claim 2 of the present application, claim 1 of U.S. Patent No. 6,663,302 recites a rotatable component, an elongate rail, a projection and a rotation-implementing first cam.

4. Claim 3 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,663,302. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 2 of U.S. Patent No. 6,663,302 recites a rotatable bearing structure which rotates between defined positions of engagement and nonengagement and the position of engagement produces different printhead-to-media spacing values.

5. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,663,302. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 3 of U.S. Patent No. 6,663,302 recites an elongate shaft, a rotatable bearing structure and an elongate finger.

6. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,663,302. Although the

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conflicting claims are not identical, they are not patentably distinct from each other because claim 4 of U.S. Patent No. 6,663,302 recites an axially outwardly facing, helical, cam surface.

7. Claims 6-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,663,302. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

With respect to claim 6, claim 5 of U.S. Patent No. 6,663,302 recites a first fixed mechanical contact actuator, a first movable mechanical contact actuator, a plate structure, a spring-biased push-button, a rotary ratchet wheel and an elongate finger.

With respect to claim 7, claim 5 of U.S. Patent No. 6,663,302 recites an apparatus for adjusting to different selectable values for printhead-to-media spacing including a first fixed mechanical contact actuator, a first movable mechanical contact actuator such that

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Waibel (US 4,859,096).

With respect to claim 1, Waibel discloses an apparatus for adjusting printhead-to-media spacing including a first stationary mechanical contact actuator 48 disposed outside of a printing

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zone (Waibel, col. 4, lines 56-59) and a first movable mechanical contact actuator 32 which causes positional adjustment of the carriage as shown in Figure 1 of Waibel.

With respect to claim 7, Waibel discloses the apparatus as mentioned above and further discloses that the printhead to media spacing is adjust from one value (when the movable actuator 32 is at the beginning or left-most portion of actuator 48) to another value (when the movable actuator is at the end or right-most portion of actuator 48) as shown in figure 1 of Waibel.

Allowable Subject Matter

10. Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

Claims 2-5 have been indicated as containing allowable subject matter primarily for the rotation-implementing first cam drivingly jointed to a rotatable component.

Claim 6 has been indicated as containing allowable subject matter primarily for the spring-biased push-button and the rotary ratchet wheel.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aoki (JP 59012886), Inagaki et al. (JP 58108180) and Takezawa (JP 55159986) are

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cited to show other examples of apparatuses with fixed and moving actuators for changing printhead-to-media spacing.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Colilla whose telephone number is (571)272-2157. The examiner can normally be reached Tues.-Fri. between 7:30 am and 6:00 pm. Faxes regarding this application can be sent to (703)872 - 9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached at (571)272-2168. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 15, 2004



Dan Colilla
Primary Examiner
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